

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

DEBBIE ANN LOWE,	)	No. CV-F-05-098 REC/LJO HC
	)	
	)	ORDER VACATING JUDGMENT
	)	ENTERED ON MAY 19, 2005
Petitioner,	)	(Docs. 8 & 9) AND DIRECTING
	)	PETITIONER TO SUBMIT
vs.	)	APPLICATION TO PROCEED IN
	)	FORMA PAUPERIS OR PAY FILING
	)	FEE
GLORIA HENRY, Warden,	)	
	)	
	)	
Respondent.	)	
	)	
	)	

On April 7, 2005, the United States Magistrate Judge filed a recommendation that this action be dismissed because of petitioner's failure to timely comply a court order. Petitioner had not complied with the order filed on February 24, 2005 directing petitioner to submit, within 30 days of the date of service of the order, a new application to proceed in forma pauperis and a certified copy of the prison trust account or pay the \$5.00 filing fee. The docket in this action establishes that petitioner was served with the February 24, 2005 order and that she had and still has not complied with it. The docket also

1 establishes that petitioner was served with the recommendation.  
2 No objections to the recommendation were filed by petitioner. By  
3 Order filed on May 19, 2005, the court adopted the recommendation  
4 and dismissed the action for failure to comply with a court  
5 order. Judgment for respondent was entered on May 19, 2005.

6 On May 31, 2005, petitioner filed an "Objection to Judgment  
7 of Dismissal; Motion to Respond to Findings and Recommendation."  
8 Petitioner contends that she did not receive the recommendation  
9 filed and served on April 7, 2005 and implies that she did not  
10 receive the February 24, 2005 order, asserting that "the fault  
11 lies with the prison for not delivering my legal mail."

12 Because it is possible that the copies of the February 24,  
13 2005 order and the April 7, 2005 recommendation were not  
14 delivered to petitioner by prison authorities, the court vacates  
15 the judgment entered on May 19, 2005. Within 30 days of the  
16 filing date of this order, petitioner is ordered to submit a  
17 completed application to proceed in forma pauperis, or in the  
18 alternative, pay the \$5.00 filing fee for this action. Failure  
19 to timely comply with this order will result in the dismissal of  
20 this action.

21 IT IS SO ORDERED.

22 **Dated: June 3, 2005**  
668554

**/s/ Robert E. Coyle**  
UNITED STATES DISTRICT JUDGE